IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

Crl.MC.No. 3337 of 2007()

CC.821/2007 of JUDL.MAGISTRATE OF FIRST CLASS-III, PUNALUR

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PETITIONER: ACCUSED IN CC 821/2007

AJAYAKUMAR, AGED 49, S/O.GOPALAN,
KODIYATHE VEEDU, THEKKETHERI WARD,
PATTAZHI VILLAGE.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY

RESPONDENTS: STATE & COMPLAINANT

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1. STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA.

2. SUB INSPECTOR OF POLICE,
KUNNIKODE POLICE STATION.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3337 of 2007

Dated this the 1st day of November 2007

O R D E R

The petitioner faces indictment in a prosecution under the provisions of the Explosive Substance Act. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. The petitioner was enlarged on bail at the crime stage.

2. The short grievance of the petitioner is that the learned Magistrate has unnecessarily issued a non-bailable warrant of arrest against the petitioner while issuing process under Section 204 Cr.P.C. The petitioner hence apprehends that he may be detained in custody when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which the warrant happened to be issued. He can apply for bail and bring to the notice of the learned Magistrate that he is entitled for bail. The learned Magistrate must consider such application for bail on merits, in accordance

with law and expeditiously. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003 (1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of this case, there shall be a direction that the warrant of arrest issued against the petitioner shall not be executed till 14/11/2007. On or before that date, the petitioner must appear before the learned Magistrate and seek regular bail.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007